

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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IN RE: BAIR HUGGER FORCED AIR WARMING PRODUCT LIABILITY LITIGATION MDL No.: 15-md-02666 (JNE/DTS)

This Document Relates To:

ALFRED ENGLISH,  
Plaintiff,  
Civil Action No.: 18-cv-02082

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**PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

NOW COMES Plaintiff, Alfred English, identified in Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1828], and by and through undersigned counsel submits this, his Response to Defendants' Motion to Dismiss, and would respectively show the Court the following:

**FACTS AND ARGUMENT**

In July 2015, Mr. Alfred English contacted undersigned counsel regarding an infection and subsequent treatment that he experienced due to the use of a Bair Hugger patient warming device during an orthopedic surgery. Counsel worked to obtain medical records and billing records to move forward with the case. Those records indicated that a Bair Hugger device was used during the original surgery. On July 20, 2018, counsel filed the current action to comply with what was identified as the applicable statute of limitations deadline for the relevant claim.

Efforts to have Mr. English complete the Plaintiff Fact Sheet began soon after the case was filed but have been complicated by the inability to get in contact with the Plaintiff. Counsel obtained information around that time suggesting that Mr. English had moved into a retirement home. However, letters sent to that address have been returned as undeliverable and phone calls with administrators at the retirement home have been unproductive, as they will not give out any personal information regarding Mr. English due to privacy concerns or even confirm whether Mr. English currently resides there. Counsel also obtained contact information for next of kin but has not received a response to contact letters sent to those individuals.

While counsel has diligently continued their attempts to contact Mr. English since that time, those efforts have not been successful to date. As a result, counsel has not been able to obtain the necessary information to complete the Plaintiff Fact Sheet for this claim. Counsel for Plaintiff believe that additional time could allow them to locate and reestablish contact with Plaintiff and complete the Plaintiff Fact Sheet.

### **CONCLUSION**

Accordingly, undersigned counsel request that the current action not be dismissed with prejudice and that Plaintiff be given an additional ninety (90) days so that counsel can try to locate and reestablish contact with Mr. English to allow him an opportunity to provide the necessary information to complete the Plaintiff Fact Sheet and to continue the case.

Dated: March 12, 2019

KENNEDY HODGES, LLP

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